

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:05CR94
)	
Plaintiff,)	
)	
vs.)	TENTATIVE FINDINGS
)	
JUAN GARCIA,)	
)	
Defendant.)	

The Court has received the Presentence Investigation Report ("PSR") and the Defendant's objection thereto (Addendum).¹ The government has adopted the PSR. (Filing No. 320.) See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant objects to the 4-level upward adjustment in ¶ 82 for the Defendant's alleged role in the offense as an organizer or leader of criminal activity that involved five or more participants. The objection will be heard at sentencing.

IT IS ORDERED:

1. The Defendant's objection to the Presentence Investigation Report (Addendum) will be heard at sentencing;
2. Otherwise the Court's tentative findings are that the Presentence Investigation Report is correct in all respects;

¹The objection was not filed pursuant to the order on sentencing schedule (Filing No. 298).

3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and

5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 20th day of February, 2007.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge